

**\*OGC Has Reviewed\***

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14 JAN 1971

MEMORANDUM FOR: Special Support Assistant to the Deputy  
Director for Support

25X1A

ATTN: [REDACTED]

SUBJECT: Tax Exemption--CIARDS Disability Annuities

1. In line with your interest this date on subject, there is attached an excerpt from the House Committee hearing on the proposed CIA Retirement Act in which there appears the request from the Chairman of the Ways and Means Committee to defer to that Committee on the provision in the bill exempting disability annuities from Federal income taxes. Also attached from the same source is the language of the provision in question together with a short explanation.

2. As a matter of fact, following this hearing the Ways and Means Committee did not act at all on the proposition even though encouragement was given up until the close of the 88th Congress in late 1964.

3. In the succeeding 89th Congress, after the CIA Retirement Act had become law, the proposition was introduced as a separate bill (H. R. 8815) and referred to the Ways and Means Committee. Again, while prospects for favorable consideration looked bright at the outset, action became ensnared in an overall policy review of the general subject by the Joint Committee on Internal Revenue Taxation. As a consequence, our report to the Ways and Means Committee on the legislation was never cleared by the Bureau of the Budget.

4. The justification for the proposition, in addition to the existing Foreign Service precedent, has been that conditions of service and exposure of CIARDS personnel are such that their disability, like Armed Forces members and Foreign Service personnel, are sufficiently duty connected to warrant exclusion of the resulting annuity from taxation. Bearing

negatively on the issue is the fact that tax-exempt FECA benefits are already available in performance of duty cases and the general reluctance to extend the existing Foreign Service exemption to any new civilian group in the face of numerous bills introduced every year to provide similar treatment for Civil Service disability annuities.

5. Based on our most recent readings with the Ways and Means Committee, prospects for this type of legislation appear dim, although this doesn't mean we shouldn't give it a try. Moreover, this legislation would probably never be favorably acted upon by the Ways and Means Committee without the concurrence and support of the Office of Management and Budget, Treasury, and possibly the Civil Service Commission.



25X1A

Assistant Legislative Counsel

[No. 26]

SUBCOMMITTEE NO. 1 CONSIDERATION OF H.R. 7216, TO AMEND THE  
CENTRAL INTELLIGENCE AGENCY ACT OF 1949, AS AMENDED,  
AND FOR OTHER PURPOSES

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ARMED SERVICES,  
SUBCOMMITTEE NO. 1,  
*Washington, D.C., Tuesday, July 23, 1963.*

The subcommittee met at 10 a.m., Hon. L. Mendel Rivers, chairman  
of the subcommittee, presiding.

Mr. RIVERS. Let the committee come to order

Mr. McCone has another very important engagement, and he asked  
that after his statement he be excused. And, of course, we want to  
accommodate him. And he is late now. So I will ask the committee  
to come to order, and let us begin the hearings on this very important  
piece of legislation.

Members of the committee, we are meeting this morning to begin  
hearings on H.R. 7216, a bill to amend the Central Intelligence Agency  
Act of 1949. Mr. McCone and General Carter are here to testify in  
support of this bill.

Gentlemen, we are very pleased to have you here, Mr. McCone, with  
the members of your staff, and I am sure that this will be an enlighten-  
ing session for all of us.

Now, this looks like a very complicated bill. Actually, almost all  
of the provisions currently exist as law applying to executive agencies.  
The first part of the bill contains technical amendments to bring the  
CIA Act up to date on such things as travel and medical benefits. It  
also contains a proposed new section authorizing the Agency to receive  
gifts from individuals and business organizations.

However, by and large, the main purpose of this bill is to authorize  
CIA to establish a special retirement system for a limited number of  
their employees and we will go into that part first. The system is  
identical, or almost identical, to the retirement system of the Foreign  
Service and I am advised that it does not provide anything new.

I will not ask Mr. McCone to discuss all of this at this time. Mr.  
McCone will present a general statement on this bill and answer a few  
general questions. Then, because much of the specific discussion  
will involve classified information, of course we will have to go into  
executive session.

Mr. McCone, I would like to ask you and your people as they testify  
on the retirement system to point out anything that is different from  
the Foreign Service system. This committee has jurisdiction over  
CIA but it is not expert in the Foreign Service retirement system  
which, as it stands today, is the result of some 40 years' of experience.

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Mr. GAVIN. This extraordinary person that you propose under this 5-year system: Supposing his work is completed in 3 years, and he leaves the profession, that he has well established. Do you think he is going to come in for the limited time that you might require—and say it would be 3 years—for the particular purpose, that you may require him, and be satisfied with the annuity position you are going to pay him after he leaves a very responsible position that may have taken years to secure?

General CARTER. Well, I think the choice, sir, would be up to the individual circumstances for each person.

Mr. GAVIN. Whether or not he would accept— It is some incentive, General CARTER. It is some incentive, sir.

General CARTER. It is some incentive, sir.

Mr. GAVIN. Well, if you required a professional man for a certain particular assignment, and that assignment had been completed, and you had no further use for him, do you think he would be satisfied with the annuity that he would receive after 3 years, to leave his present position to come in to render a special service for you, or your department?

General CARTER. We would not normally take that type of person on as a staff employee, sir. We would take him on as a contract employee or a contract agent, and hire him for an annual or a 3-year contract at a reasonable scale, as we hired the U-2 pilots who were on contract. And then when their services are over, we are free of them. We have no retirement or annuity responsibilities at all.

Mr. RIVERS. This would be strictly a special contract?

General CARTER. A special contract; yes, sir.

Mr. RIVERS. Now, Mr. Blandford, you have a letter there—before we recess.

Mr. Blandford. Yes, sir.

Mr. RIVERS. We can't meet this afternoon because we have a bill on the floor.

Mr. Blandford. All right, sir.

I think I should read so that General Carter and others can take the appropriate action.

Mr. RIVERS. Now, I want you all to hear this.

Mr. Blandford. The letter is addressed to the chairman, Mr. Vinson, from the Committee on Ways and Means:

Hon. CARL VINSON,  
Chairman, Committee on Armed Services,  
U.S. House of Representatives

MY DEAR MR. CHAIRMAN: It has come to the attention of the Committee on Ways and Means that H.R. 7216, which you introduced at the request of the administration, and which would amend the Internal Revenue Code. It has been the practice of the Committee on Ways and Means in such cases to request the committee concerned that it not act on provisions within the jurisdiction of our committee until we have had an opportunity to review the provisions and submit to the committee concerned whatever action the Committee on Ways and Means feels should be taken on the particular provision.

Some of the better known provisions of H.R. 7216, which you introduced, are the Federal Highway provisions, the Federal Trust Fund provisions, the Ways and Means provisions, and the Federal Trust Fund provisions, which are handled by the tax and

silver Purchase Act (Committee on Banking and Currency), wherein the Committee on Ways and Means handled the tax features; and more recently, the A-241s). wherein we handled the tax provisions (Committee on Interior and Insular Affairs).

in line with this policy of the Committee on Ways and Means, this letter is to request that you permit our committee to review the tax provisions of H.R. 7216 and submit to you whatever our suggestions may be as to these provisions. It has been our practice in such cases to recommend that a separate title be written in a bill concerning those matters within our jurisdiction on which we make recommendations. We write the language on them, we suggest on such separate titles, as well as the overall legislation has been referred to us expeditiously, so as not to delay in any way the schedule of the committee to whom the overall legislation has been referred.

We always make every effort to consider the part of the legislation in interest to us expeditiously, so as not to delay in any way the schedule of the committee to whom the overall legislation has been referred.

Sincerely yours,

WILBUR D. MILLS,  
Chairman,  
Ranking Minority Member.

Mr. Chairman, I discussed with Mr. Irwin of the Ways and Means Committee this morning this bill, and indicated that our schedule at this time was to complete the subcommittee hearings this week, by Thursday, and report the bill to the full committee by Tuesday.

I would like to suggest, therefore, that the CIA representatives and I take this bill, H.R. 7216, discuss it immediately with the Ways and Means Committee, and try to work out a separate title and a separate report which the Ways and Means Committee can approve, which then could be—

we could strike out the Internal Revenue language in 7216, add a separate title with whatever they approve with regard to the Internal Revenue Code, and report the bill with their suggested language, and their suggested report language, which would comply with their request. Because we are in their jurisdiction in two areas, to the best of my knowledge, one on disability retirement and the other on gifts.

General CARTER. Yes, sir; we will undertake to do that immediately.

Mr. RIVERS. Why don't we follow that course and see what comes out of it.

Mr. Blandford. Yes, sir.

General CARTER. Yes, sir.

Mr. RIVERS. You can get them to do that today.

General CARTER. I am sure, if we can get right at it.

General Blandford. I am sure it can be brought to their attention today.

And they ought to have something to bring back to us certainly by next week.

Mr. RIVERS. Let us do that.

Have you finished your statement?

General CARTER. Except for disability retirement, sir, which we won't—

Mr. RIVERS. We had better get to the floor. I don't think the will—

General CARTER. Yes, sir.

5916

TITLE III—INTERNAL REVENUE CODE AMENDMENT

Paragraph (4) of section 104(a) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 104(a) (4)) (relating to the exclusion from gross income of compensation for injuries and sickness) is hereby amended to read as follows:

"(4) amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, or as a disability annuity payable under the provisions of section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081, 60 Stat. 1021), or as a disability annuity payable under the provisions of section 231 of the Central Intelligence Agency Retirement Act of 1963."

*Explanation.*—This section amends paragraph 4 of section 104(a) of the Internal Revenue Code of 1954 to exempt disability annuities under title 11 of this act from Federal income tax. This is the same exemption already accorded similar annuities for participants under the Foreign Service disability and retirement system and for members of the uniformed services. (This section was favorably reviewed by the Department of Treasury in processing within the executive branch.)

Mr. WARNER. Page 1, line 5, this is a new title to the bill. I don't believe it needs any explanation. At line 10 we have the inclusion of the Deputy Director within the definition of director to permit General Carter to make the determinations required under the act.

Mr. HARDY. Is that the normal procedure to write that into the statute?

Isn't that normally accomplished by delegation?

Mr. WARNER. Well, we felt that these actions are of sufficient importance that it ought to be abundantly clear. It does vary—sometimes it is in statutes; sometimes not. We thought it would be better to make it clear that the Deputy Director is fully authorized to act for Director in these situations.

Mr. HARDY. I think that is probably all right, but every now and then when we get into situations where there are circumstances as important as these, it has generally been the thinking that the ultimate responsibility ought to be placed exclusively on the top administrative officer, which in this case would be the Director. I don't know whether—

Mr. BATES. And he delegates it if he wants to?

Mr. HARDY. Yes. Then in the event you have got a real come-back—

Mr. RIVERS. I can't conceive how there would be any difference of opinion between the two because the President would certainly remove him if there were any shenanigans between the two of them. I don't see how it can hurt.

Mr. BLANDFORD. Does the Foreign Service Act give this authority to the Secretary of State and does he delegate it or does it—

Mr. WOODYEAR. It is given to the Secretary of State and delegated to the personnel director.

Mr. BLANDFORD. You have never had any problem then, insofar as interpretations are concerned, that a delegated authority affecting retirement has been questioned, I mean to your knowledge?

Mr. WOODYEAR. To my knowledge we have never had any problem with it.

Mr. HARDY. I just have a doubt in my mind that we ought to have departure from what is normal practice in this. That is all.

Mr. BLANDFORD. Nothing actually is added or detracted from it. Mr. Hardy, if it were deleted.